

**CALENDAR ITEM
C52**

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02/09/16
PRC 5264.1
V. Caldwell

GENERAL LEASE – COMMERCIAL USE

APPLICANT:

Paula Joy Bremier and Valary Gay Bremier

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Corte Madera Creek, adjacent to 2170 Redwood Highway, near the city of Larkspur, Marin County.

AUTHORIZED USE:

Continued use and maintenance of an existing uncovered floating boat dock and gangway previously authorized by the Commission; and use and maintenance of an existing deck, pilings, four platforms, and launch ramp not previously authorized by the Commission.

LEASE TERM:

20 years, beginning December 18, 2015.

CONSIDERATION:

\$747 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

Other:

The lease contains provisions that require implementation of the Commission's "Best Management Practices for Guest Dock User", including additional Best Management Practices (BMPs) the Commission subsequently deems appropriate for either of the above categories.

STAFF ANALYSIS AND RECOMMENDATION:

Statutory Authority:

Public Resources Code sections 6005, 6216, 6301, and 6503.5; California Code of Regulations, Title 2, section 2000, subdivision (b).

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Public Trust and State's Best Interests Analysis:

The subject dock and appurtenant facilities are for the docking and mooring of boats. The boat launch similarly facilitates recreational boating in the area. Recreational boating is water-dependent and has long been held to be consistent with the common law public trust doctrine. The California Legislature has identified private recreational boating facilities as an appropriate use of public trust lands (Public Resources Code § 6503.5). The subject structures are privately owned and maintained and used for commercial use. The adjacent upland parcel is privately owned and developed.

The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 20 years, and a non-exclusive use provision.

The dock and appurtenant facilities and the boat launch have existed for many years at this location; they do not significantly alter the land, they do not permanently alienate the State's fee simple interest in the underlying land, and they do not permanently impair public rights. Upon termination of the lease, the Lessee may be required to remove any improvements and restore the lease premises to their original condition. Based on the foregoing, Commission staff believes that the dock and appurtenant facilities will not substantially interfere with public trust needs, at this location, for the foreseeable term of the proposed lease.

The proposed lease requires the lessee to insure the lease premises and indemnify the state for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law public trust doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On March 31, 1977, the Commission authorized a General Lease – Recreational Use to L.G. Bremier. The lease expired on February 28,

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1992. On July 31, 2012, the property was gifted to Paula Joy Bremier and Valary Gay Bremier. The Applicant is now applying for a General Lease – Commercial Use.

3. The existing deck, pilings, four platforms, and launch ramp have existed at this location for many years, but have not been previously authorized by the Commission. The tenants from the upland commercial storage establishment are given access to the adjacent docking and launch ramp facilities. Staff recommends authorization of all existing facilities.
4. This activity is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and human safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
5. The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

6. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

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RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease is consistent with the common law public trust doctrine, that it will not substantially interfere with the public trust needs and values at this location, and that it is in the best interests of the State.

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Commercial Use to Paula Joy Bremier and Valary Gay Bremier beginning December 18, 2015, for a term of 20 years, for continued use and maintenance of an existing uncovered floating boat dock and gangway previously authorized by the Commission; and use and maintenance of an existing deck, pilings, four platforms, and launch ramp not previously authorized by the Commission as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; consideration: \$747 per year, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 5264.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Corte Madera Creek, in the unincorporated area of Greenbrae, County of Marin, State of California, and being more particularly described as follows:

COMMENCING at the southwest corner of Parcel Two as described in that certain Gift Deed recorded as Document No. 2012-0046314, Official Records of said county; thence along the westerly boundary of said parcel, North $13^{\circ} 07' 30''$ East 91.48 feet to the POINT OF BEGINNING; thence along said westerly boundary and northerly prolongation thereof, North $13^{\circ} 07' 30''$ East 116.53 feet; thence leaving said boundary prolongation the following three (3) courses:

- 1) South $87^{\circ} 30' 11''$ East 95.85 feet,
- 2) South $10^{\circ} 04' 00''$ East 121.77 feet,
- 3) North $85^{\circ} 46' 52''$ West 143.90 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portions lying landward of the Ordinary High Water Mark on the right bank of said Corte Madera Creek.

END OF DESCRIPTION

Prepared 10/07/2015 by the California State Lands Commission Boundary Unit.



NO SCALE

SITE

**LEASE
AREA**

CORTE MADERA CREEK

9' IMPACT
AREA

EXISTING
DOCK
6' x 68'

EXISTING
GANGWAY
5' x 22'

EXISTING
LAUNCH
RAMP

EXISTING
DECK

APPROX.
SHORELINE

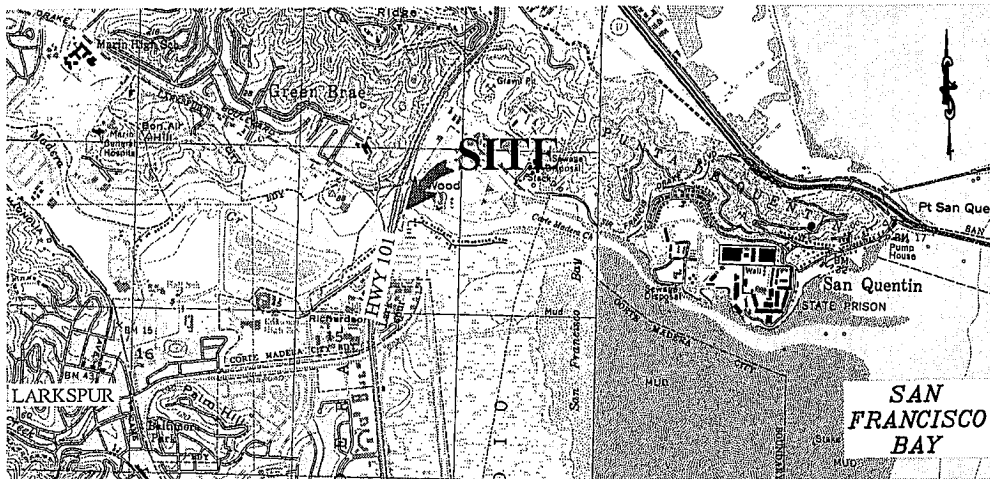
EXISTING
PLATFORM (4)

APN 023-012-33

2170 REDWOOD HIGHWAY, GREENBRAE

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

PRC 5264.1
BREMIER
APN 023-012-33
GENERAL LEASE -
COMMERCIAL USE
MARIN COUNTY



TS 10/07/15